

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

THE STATE OF MISSISSIPPI, EX REL.)	
JIM HOOD, ATTORNEY GENERAL)	
FOR THE STATE OF MISSISSIPPI,)	
)	
Plaintiff-Counterclaim Defendant,)	
)	
v.)	No. 3:08-CV-780-HTW-LRA
)	
ENTERGY MISSISSIPPI, INC., ENTERGY)	
CORPORATION, ENTERGY SERVICES,)	
INC., AND ENTERGY POWER, INC.,)	
)	
Defendants-Counterclaim Plaintiffs.)	

**MOTION FOR JUDGMENT
ON THE PLEADINGS**

Pursuant to Rules 12(b)(1) and 12(c) of the Federal Rules of Civil Procedure, Defendants Entergy Corporation, Entergy Mississippi, Inc., Entergy Services, Inc. and Entergy Power, Inc. (collectively “Defendants”) respectively move that judgment be entered on the pleadings in favor of Defendants on their Counterclaim and that the Complaint be dismissed without prejudice to Plaintiff’s right to pursue its claim before the Federal Energy Regulatory Commission (“FERC”) or before the Mississippi Public Service Commission (“MPSC”) to the extent that the Plaintiff’s claims are held to be outside the exclusive jurisdiction of FERC.

This motion is based on the grounds that any state law claims in this case are preempted by the Federal Power Act and the Supremacy Clause of the United States Constitution and that Plaintiff’s federal law claims are within the exclusive jurisdiction of the Federal Energy Regulatory Commission. Further, to the extent any of Plaintiff’s claims are not governed by the

Federal Power Act, they are within the “exclusive original jurisdiction” of the Mississippi Public Service Commission.

In support of this motion, Defendants submit a Memorandum of Law and several exhibits attached thereto.

Respectfully submitted,

ENTERGY MISSISSIPPI, INC., ENTERGY CORPORATION, ENTERGY SERVICES, INC. and ENTERGY POWER, INC.,
Defendants

By their attorneys,

/s/ James L. Robertson

JAMES L. ROBERTSON, MS Bar No. 5612
Post Office Box 651
Jackson, MS 39205-0651
Telephone: (601) 944-7735
Facsimile: (601) 968-5593
jlr@wisecarter.com

/s/ Michael B. Wallace

MICHAEL B. WALLACE, MS Bar No. 6904
Post Office Box 651
Jackson, MS 39205-0651
Telephone: (601) 968-5534
Facsimile: (601) 944-7738
mbw@wisecarter.com

/s/ David W. Carpenter

DAVID W. CARPENTER, IL Bar No. 3123098
One South Dearborn
Chicago, IL 60603
Telephone: (312) 853-7237
Facsimile: (312) 853-7036
dcarpenter@sidley.com

OF COUNSEL:

O. H. STOREY, III, AR Bar No. 69078
Deputy General Counsel
ENTERGY SERVICES, INC.
425 West Capitol Avenue, 27th Floor
Little Rock, AR 72201
Telephone: (501) 377-5879
ostorey@entergy.com

JAMES W. SNIDER, JR., MS Bar No. 7671
Managing Counsel
ENTERGY MISSISSIPPI, INC.
Post Office Box 1640
Jackson, MS 39215-1640
Telephone: (601) 969-2658
jnsider@entergy.com

WISE CARTER CHILD & CARAWAY, P.A.
Post Office Box 651
Jackson, MS 39205-0651
Telephone: (601) 968-5500

SIDLEY AUSTIN LLP
One South Dearborn
Chicago, IL 60603
Telephone: (312) 853-7237

Dated May 4, 2009

CERTIFICATE OF SERVICE

I hereby certify that on this day, May 4, 2009, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent such notification of such filing to the following:

Harold E. Pizzetta, Esq.
Special Assistant Attorney General
Chief, Civil Litigation Division
Office of the Attorney General
State of Mississippi
550 High Street, Suite 1100
Jackson, MS 39201
HPIZZ@ago.state.ms.us

Bridgette W. Wiggins, Esq.
Special Assistant Attorney General
Office of the Attorney General
State of Mississippi
550 High Street, Suite 1100
Jackson, MS 39201
BWILL@ago.state.ms.us

So certified, this 4th day of May, 2009.

/s/ Michael B. Wallace
MICHAEL B. WALLACE